

REMARKS

I. Status of Claims

Claims 50-68 are currently pending. By this amendment, claims 50, 52, and 68 have been amended. No new matter has been added by this amendment.

II. Rejections under 35 U.S.C. § 112

Claims 50-68 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. According to the Examiner, “[t]he recitation of ‘containing’ from 1-30 carbon atoms lacks clarity.” Although Applicants strongly disagree, to advance prosecution, claims 50, 52, and 68 have been amended to replace the word “containing” with the word “with,” thus mooted this grounds of rejection. This amendment in no way alters the scope of the claims.

In addition, the Examiner has asked for clarification regarding the term “sol” as used in claims 63-67. She has not rejected these claims on this grounds, but merely asks about the meaning of the term. “Sol” is a term used by those of ordinary skill in the art to mean “[a] class of colloid.” See Hawley’s Condensed Chemical Dictionary, page 1029 (14th ed., 2001). The present specification states that “[a] sol of the desired at least one organometallic compound ... may be in the form of colloidal particles suspended in the co-solvent, or in the form of a compound dissolved in the co-solvent.” Specification at page 13, paragraph [031]. The specification goes on to explain that “the expression ‘organometallic compound sol’ will mean the mixture of the organometallic compound and of its co-solvent.” *Id.* at paragraph [032]. This definition fully supports the use of the term “sol of at least one organometallic compound” as used in claim 63

and its dependent claims. Accordingly, the term “sol,” as used in the instant claims, is clear and definite.

III. Rejection under 35 U.S.C. § 102(e)

Claims 50-68 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,352,699 to Mondet et al. (“Mondet”). Applicants respectfully traverse the rejection.

According to the Examiner, formula 1A of Mondet is the same compound claimed in the present application and “reads on the claimed method of ‘protecting the hair’ since the patent discloses that even after several washes using water and shampoo, the initial waviness of the hair is retained.” Office Action at 3. The Examiner further states that “application of the compound to the keratin (nail) is [the] same, therefore the method claimed in claim 53-59 and the method claimed in claim 69 [sic, claim 68] in the body of the claim [‘effective to reduce the brittleness of the human nails’] is inherent.” *Id.* at 3-4.

Although the Examiner states that Mondet “reads on the claimed method of ‘protecting the hair,’” to the contrary, not one of pending claims 50-68 is directed towards a method of protecting the hair. Rather, claims 50-67 are directed towards “a method of protecting and/or strengthening a keratin material . . . wherein said composition is applied to said keratin material in an amount effective to obtain at least one of harder nails, stronger nails, less brittle nails, nails which no longer split, and nails which no longer crack.” See, e.g., claim 50 (emphasis added). Likewise, claim 68 is directed towards “a process for treating keratin material . . . wherein said composition is applied to said keratin material in an amount effective to reduce the brittleness of human nails”

(emphasis added). Claims 50 and 68 are the only independent claims, and thus none of claims 50-68 are directed towards a method of protecting hair, but instead refer only to the protection of nails.

Applicants note that Mondet does disclose a nail varnish, for example in Examples 1 and 2 at column 8, line 30 to column 9, line 14. However, Mondet does not teach or suggest the methods of Applicants' claims, i.e., obtaining at least one of harder nails, stronger nails, less brittle nails, nails which no longer split, and nails which no longer crack and reducing the brittleness of human nails.

Rather, the disclosure of Mondet teaches that the composition applied therein "led to the formation of a homogenous glossy film with excellent resistance to water, detergents and alcohol. It also had excellent scratch resistance." Mondet, Example 1 at col. 8, ll. 57-61 (emphasis added). Mondet further states that one aim of the composition disclosed therein is to "giv[e] rise to a film with excellent gloss, good surface hardness, good mechanical properties, in particular impact strength (no flaking) and which can withstand washing with water, detergents and other normal organic cosmetic solvents." *Id.* at col. 2, ll. 23-28 (emphasis added).

Thus, notably, Mondet is silent with respect to any effect the composition might have on the substance of the keratin material (i.e., the nail) itself. Instead, Mondet only references the properties of the composition and the film it forms, saying nothing about properties transferred to the actual nail material. The instant claims, however, are drawn to a method of protecting and/or strengthening the keratin material itself, and a method of treating keratin material wherein the brittleness of human nails is reduced. Therefore, Mondet's disclosure that the composition and its resulting film have good

surface hardness and good mechanical properties, such as good impact strength, in no way teaches a method of protecting and/or strengthening the keratin material effective to obtain at least one of harder nails, stronger nails, less brittle nails, nails which no longer split, and nails which no longer crack. Nor does Mondet teach a process for treating a keratin material effective to reduce the brittleness of human nails.

As Mondet does not teach all of the elements of the pending method claims 50-68, Applicants respectfully request withdrawal of the rejection under § 102(e) and reconsideration of the pending claims.

IV. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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